

Applicant : J. Stuart Cumming
Appl. No. : 09/740,679
Examiner : Eduardo C. Robert
Docket No. : 13533.4033

Remarks

Reconsideration of this application is requested.

By the present amendment, a number of claims have been amended, and in particular the active independent claims have been amended to define the inner ends of the haptics only partially surrounding the optic fully consistent with the elected species of Figure 18, and clearly distinguishing from the cited Schlegel patent.

First, it is not understood why the Terminal Disclaimer filed March 31, 2005, was not accepted, unless it is because the Examiner wants to include the other patents and applications raised in the current Office Action. It was executed on behalf of the Assignee of this application and the patent application Serial Number 08/987,531, now Patent No. 6,197,059 of which this application is a continuation. A copy of the cover page is attached showing Medevac Licensing B.V. as the assignee.

In any event, Applicant will submit an acceptable Terminal Disclaimer in due course upon allowance of the claims.

With respect to the Section 112 rejection, the terminology "stalk-like" has been deleted.

With respect to the Section 101 rejection, Claim 113 has been suitably amended to overcome this rejection.

It is noted that the Examiner made a restriction requirement in the Office Action of September 18, 2002, which was responded to October 12, 2002. The Species elected was that of Figure 18. The attorney at that time apparently misread several of the claims because several claims identified as "withdrawn" upon further review of the claims, drawings and specification, should have been included

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as applicable with regard to Figure 18. These include Claims 65, 72, 80, 85, 86, 91, 93, 94 and 95. With respect to Claim 65, it is clear from Figure 18 that the haptic outer portion width is substantially the same as the diameter of the optic. With respect to Claim 72, the description on page 10 beginning at line 19, clearly describes the flexibility of the haptics. With respect to Claim 80, this claim clearly reads on Figure 18 which is described in the application at page 44, line 19, as having plate haptics 120, and Figure 18 clearly shows the hinge. With respect to Claim 85, Figure 18 clearly shows the hinge as a groove across the posterior side of the haptic. With respect to Claim 86, Figures 5 – 8 illustrate the movement of the optic with respect to the haptics and which are applicable to all of the various embodiments including Figure 18. With respect to Claim 91, the haptics and optics flex as earlier noted with regard to page 10, beginning at line 19. As to Claim 93, Figure 18 clearly shows the hinges as grooves which inherently are flexible zones. The same applies to Claim 94. With regard to Claim 95, the previous reference to page 10, beginning at line 19 is applicable.

Turning now to the Section 102 and 103 rejections, it is respectfully submitted that the present claims define patentable subject matter over the cited art. In particular, there is no disclosure in Schlegel of an accommodating intraocular lens, and it is respectfully submitted that it is not inherently one. His lenses are stated to have “great mechanical stability,” column 2, lines 28-29, mechanically stable, column 3, lines 21-22, and to be free from any inner mechanical stresses, column 2, line 43. Thus, the Schlegel lens is specifically designed for stability, as versus the lenses of the present application which are designed for motion, namely accommodation by movement of the optic with respect to the outer ends of the haptics.

The Examiner contends that the claimed grooves of the present claims is between the lens 11 and the ridge 17 of Schlegel, but this only applies to his Figures

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1 – 2 which are substantially different from the present lenses and the present claims. There is no groove nor hinge whatsoever in Schlegel's embodiments of Figures 3-4 which the Examiner principally uses in his rejection. With regard to the Examiner's comments about Claim 99, the upper end of the Schlegel Figure 3 lens is about the same width as the diameter of the optic, but that is not true of the lower end in Figure 3, and the claim defines haptics, not just one haptic.

As noted above, the independent claims have been amended to define the inner ends of the haptics as only partially surrounding the optic which is true of all of the embodiments of the present lens, and clearly a species of Figure 18. This is specifically not true of Schlegel which has areas 12 and 17 completely surrounding the optic and areas 22 and 23 completely surrounding the optic, all for 360°. That is not the case of the lenses of the present application and as set forth in the present claims.

In view of the fact that Schlegel does not disclose an accommodating intraocular lens at all, nor one of the structure shown and claimed in the present application, it is respectfully submitted that the present claims clearly and adequately define over Schlegel and the other cited patents.

Favorable reconsideration and a Notice of Allowance is earnestly solicited.

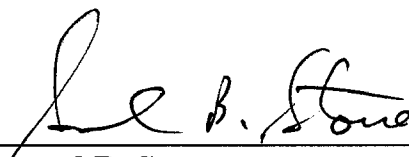
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The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

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